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CLEARINGHOUSE RULE 97-134

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. SECTIONS 6 and 13 of the rule each show two subdivisions in current rules that are not amended by the proposed rule. These subdivisions should be deleted and the treatment clauses for those SECTIONS should be modified accordingly. [See the treatment clause for SECTION 8, which correctly lists only those subdivisions that are amended.]

b. In several places, the rule adds “calendar” before “days.” This word is not needed since “day” is generally understood to mean “calendar day” and s. 990.001 (4), Stats., specifies how time is computed under state law. That statute provides that “(t)he time within which an act is to be done or proceeding had or taken shall be computed by excluding the first day and including the last” It also states that if the last day falls on a Sunday or legal holiday, the action may be taken on the next secular day. [Section 227.27 (1), Stats., states that s. 990.001, Stats., is applicable to construction of rules.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. In several places in the affected chapters [chs. HSS 131, HFS 132, HSS 133 and HFS 134], references were found to physicians’ orders where a reference to advanced practice nurse prescribers was not added. Please check the following to determine whether these rule provisions should be amended to include advanced practice nurse prescribers:

- (1) s. HFS 132.60 (6) (b): This provision should be amended if advanced practice nurse prescribers are authorized to administer chemical restraints upon written orders.

- (2) s. HSS 133.20 (1): If the plan of treatment generally includes orders for medication, this subsection should be amended to include advanced practice nurse prescriber orders, as well as physician orders.
- (3) s. HFS 134.60 (1) (b): Would it be appropriate to include medication orders in the individual program plan? If so, s. HFS 134.60 (1) (b) 1. should be amended to include advanced practice nurse prescriber orders.
- (4) s. HFS 134.67 (5): Check s. HFS 134.67 (5) (b) 2. to determine whether advanced practice nurse prescribers should be added if they have authority to transfer medications between containers. Similarly, under s. HFS 134.67 (5) (b) 3. b., if an advanced practice nurse prescriber has prescribed a medication, should this provision be amended to provide that the nurse prescriber's name should be on the medication container?
- (5) s. HFS 134.70 (2) (a) 2. and 3.: These subdivisions reference the plan of care for an individual in short-term care. If it is appropriate that these plans of care include orders for medications, should a reference to advanced practice nurse prescribers' orders be added to these provisions?
- (6) s. HFS 134.70 (2) (b) 5. and 6.: These provisions also reference the plan of care which include physicians' orders. Should the orders of advanced practice nurse prescribers be referenced in these subdivisions as well?

b. Section HSS 133.20 (4) is amended to include a definition of "advanced practice nurse prescriber" for purposes of s. HSS 133.20. However, the term is also used in s. HSS 133.21 (5) (e). It is suggested that the definition be deleted from s. HSS 133.20 (4) and added to s. HSS 133.02.

Also, all four of the definitions of the term in the rule should refer to s. 441.16 (2), Stats., rather than just s. 441.16, Stats.